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Taxation

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TAXATION

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ARGENTINA

New Tax Legislation

Effective January 1, 1971 the following amendments to existing tax law have been enacted:

— The 12% withholding tax on remittances of dividends abroad will not apply to stock dividends paid to nonresident shareholders.

— Industrial and commercial firms that reinvest between 30 to 50% of their taxable profits will pay a reduced tax of 31% on the reinvested profits; if the amount reinvested represents between 50 to 75% of taxable profits, the reduced tax amounts to 29%, and if more than 75% is reinvested the tax is 27%. Taxable profits not so reinvested will continue to be taxed at 33%.

Other tax modifications adopted at the same time relate to higher levels of non-taxable income for individuals and to increased deductions for dependents. Also, a progressive scale of stamp taxes has been established on documents issued by local public notaries, the stamp tax ranging between 2 and 3% of the value of the transaction being notarized.

Tax Treaty Negotiations with the United States

It has been reported that tax officials of Argentina and the United States have met to discuss the negotiation of a bilateral income tax treaty. It will be most interesting to see whether the Argentine authorities will be more successful than their counterparts in Brazil in negotiating provisions in the proposed treaty relating to income tax sparing. The import of tax sparing treaty provisions was discussed in the Taxation Report appearing in Volume I, No. 1 of the *Lawyer* (February 19, 1969 at page 79).

BOLIVIA

New Income Tax Code

Effective January 1, 1971 a completely revised income tax code (*Código Tributario*) was enacted pursuant to Supreme Decree No. 092298 of July 2, 1970. This code, consisting of some 306 articles, was originally to have entered into force on October 1, 1970 but reportedly did not become effective until the first of this year.

BRAZIL

Tax Reform and Enforcement

The Government's energetic campaign to enforce compliance with tax laws has had dramatic results. Whereas in 1968 only approximately one-half million income tax returns were filed with the Federal Government, the number jumped in 1969 to over four million, and for 1970 to over six million returns filed. Filed returns for 1970 constitute approximately 7% of the country's population. Although this figure is still far too low, the 1968 returns filed constituted less than 1% of the country's population. It is estimated that by 1974, 14% of the country's population will be filing income tax returns.

New Tax Incentives

A recent decree authorizes companies to deduct during the period 1971-1974 up to 50% of their income tax liabilities on sums invested in forestry projects approved by the Government Institute on Forestry Development.

Individuals may now purchase shares of *Banco de Amazonia* and *Banco do Nordeste do Brasil* and deduct up to 50% of the amount paid for such shares, provided the deduction does not exceed 25% of the total amount of the individual's income tax liability. Decree-Law No. 1138 of December 11, 1970.

Previously existing tax incentives for industrial projects in the fields of chemicals, foods, textiles, electrical goods, electronics and civil engineering, were extended through the end of 1970 by Decree-Law No. 1132 of November 13, 1970.

Withholding Tax Amendments

Decree-Law No. 1139 of December 21, 1970 clarified that withholding taxes will not be applicable to certain remittances relating to foreign

financial transactions entered into with the goal of promoting exports from Brazil. The exempt transactions include the following:

Interest and bank commissions on foreign export bills of exchange; and

Interest and commissions on foreign loans and credits relating to the financing of Brazilian exports where such credits have been authorized by the Central Bank of Brazil.

Supplementary Income Tax on Foreign Remittances

The December 15, 1970 edition of *Tax News Service* (published by the International Bureau of Fiscal Documentation) offers an excellent summary of Brazil's supplementary income tax on remittances of profits and dividends abroad.

CAYMAN ISLANDS

The following article on the Cayman Islands, authored by Marshall J. Langer, appeared in the February, 1971 edition of *Caribbean Report*. It is reprinted here in full.

THE CAYMAN ISLANDS: A TAX-FREE BASE FOR COMPANIES AND TRUSTS

In the past five years, the Cayman Islands has emerged as a leading tax haven. While political change and upheaval in other havens have forced investors to seek new bases for companies and trusts, the Cayman Government has taken positive steps to welcome off-shore investors. Cayman has no taxes except import duties and stamp duties on documents and on deeds conveying local land. There is no tax on income, capital gains, sales, property, corporations, estates, inheritance and no death duty. Moreover, there is little likelihood that any of them will exist in the foreseeable future. Better still, if you form an "exempted company," the Cayman Government guarantees you against possible future taxes for 20 years. And, if you create an "exempted trust," you receive a 50-year guarantee against taxes.

A British Crown Colony, Cayman has inherited political stability. The Administrator is appointed by the British government; English common law prevails and the language, of course, is English. Americans, Canadians and other non-residents of the Sterling Area can

obtain Non-Resident Status for their companies and trusts that grants them freedom from Exchange Control restrictions. They can deal freely in U.S. dollars and other hard currencies. Cayman has modern companies and trust laws, both enacted during the last decade. Although based on English law, they are easily understood by American businessmen and their lawyers. Transportation, communication and banking facilities are much improved. Flying time from Miami to Grand Cayman is one hour by non-stop jet on LACSA or BWIA. Overseas telephone, telex and cable facilities are available as are good banking facilities from both public and private banks and trust companies.

If you form a Cayman "exempted company" in 1971, it won't be subject even to potential future Cayman income taxes until at least 1991. A U.S. taxpayer can combine this freedom from Cayman taxes with the tax deferral advantages available under U.S. tax law to foreign corporations controlled by Americans. Your U.S. tax advisor can tell you whether or not your proposed offshore business can qualify for tax deferral under U.S. law. Some activities which should meet the requirements for deferral of U.S. tax include manufacturing, shipping, banking, financing and insurance of non-U.S. risks. In addition, almost any local activity carried on entirely within Cayman should qualify for deferred U.S. tax treatment. If you meet the requirements, you will obtain large tax savings.

The minimum government incorporation fee for an exempted company is \$480 for an authorized capital of up to \$480,000. Legal fees and all other costs—including obtaining Non-Resident Status and the 20-year tax guarantee—should not exceed \$1,000, making the total approximately \$1,500. The annual government fee for such an exempted company would be \$240. You will also have to pay a local bank or attorney for keeping the company in good order and furnishing local directors and officers, probably about \$400 a year. You should treat these fees as being equivalent to an insurance premium which you pay for the assurance that you won't be taxed for 20 years.

Why Cayman? It rates well when compared to other havens. The Bahamas, Bermuda, Netherlands Antilles and Panama have all shown signs of unrest recently. Moreover, Cayman has bank secrecy; no tax treaties require it to furnish information to other governments. And new companies can be formed rapidly—within a week. Several leading banks and trust companies in the Bahamas have established affiliates in Cayman. Canadian, British and private banks have been

joined by Central American Exchange Bank (partly owned by C & S of Atlanta) and a branch of First National City Bank of New York is due to open in 1971. Others will surely follow.

COLOMBIA

Tax Amnesty

Decree No. 2531 of December 21, 1970 establishes the steps to be taken by taxpayers who are delinquent in the payment of their income and related taxes through 1969. In essence, the decree provides for stipulated payments through 1973, failing any one of which the amnesty will be lost as regards the balance then owing.

Proposed Tax Modifications

Tax bills have been introduced in Congress that would subject corporations to higher basic income tax but would exempt them from Colombian excise profits tax. Whereas existing rates range from 12 to 36%, the revised rates would be 20% on the taxable income of 50,000 pesos and 41% on income in excess thereof. The amendments would also require that corporations invest in certain mortgage, housing, and savings bonds.

The foregoing proposals appear to draw heavily on the controversial Musgrave Report prepared recently at the request of the Colombian tax authorities.

New Free Zones

Free zones have been established in the Colombian ports of Buenaventura and Palmaseca. Resident and nonresident persons and entities may reportedly engage in commercial and industrial activities in these two free zones with exemption from income taxes and customs duties.

COSTA RICA

Common Market Tariff Barriers

Costa Rica has ratified the so-called San Jose Protocol which provides that import duties on certain products imported into the Central American Common Market (CACM) will be raised by 30% by each of the signatory countries. Under the Protocol, the revised duties were to have taken effect on September 1, 1970.

CACM Tax Seminar

The tax officials of the Central American countries held a seminar in San Jose in late 1970, which reportedly gave special attention to harmonizing the tax laws in general and in particular the tax incentives offered by each of the member countries of the Central American Common Market.

DOMINICAN REPUBLIC

Additional Annual Tax

In late 1970, an Annual Tax of 1% of the income of individuals and 2% of the income of corporations was decreed. The tax is in addition to the basic income tax and is intended for the use of certain private charities whose operations are not self-sustaining. Decree-Law No. 48 of November 6, 1970.

Tax Incentives for Exporters

Exporters will be refunded 95% of the import duties and consumption taxes on raw materials consumed in processing exports and on the containers and packaging materials used in connection with the exported products. The rebate is also applicable to other production, sales and excise taxes levied on the manufactured products that are exported. The rebate will be effected by means of tax credit certificates which will be issued to the exporter upon turning over to the Government the foreign exchange derived from the export transaction. Law No. 597 of July 27, 1970.

New Excise Taxes

Special excise taxes have been imposed on written messages sent abroad by cable or radio (10%), and on hotel charges (5%). Laws No. 596 and 594 of July 27, 1970.

ECUADOR

Revised "Value-Added" Tax

This Report has not previously reported a revision to Ecuador's value-added tax, that became effective August 1, 1970. The tax on transfers or turnovers of goods remains at 4% and applies to the importation of goods. The tax rates on services ranges between 4% and 10%. Oil refineries are

subject to the tax, whereas oil exploration companies and mining companies are exempt. The tax is collected by means of withholdings and periodic reports to the authorities.

EL SALVADOR

Summary of Income Tax Laws

A brief but excellent summary of the income tax laws of El Salvador and of the other Central American countries is set forth in the March, 1971 Newsletter published by the Centro Interamericano de Administradores Tributarios (CIAT). CIAT's Newsletter for December, 1970, contained an excellent summary of El Salvador's net wealth or patrimony tax.

JAMAICA

International Finance Companies

Pursuant to the International Finance Companies (Income Tax Relief) Act 1970, companies authorized in Jamaica to conduct offshore financial activities will be subject to income tax at the rate of only 2.5% of their net income. An International Finance Company may be a Jamaican company or a branch of a foreign company. One restriction is that the shares of these companies be held almost entirely by non-residents of Jamaica; another that the companies do not engage in business with residents of Jamaica.

Tax Treaty with Canada

Retroactive to January 1, 1970, a tax treaty has been signed by the governments of Jamaica and Canada. The treaty seeks to prevent double taxation on Jamaicans working in Canada and on Canadians working in Jamaica. Another purpose of the treaty is to prevent income tax evasion with regard to certain types of income. A more comprehensive treaty is expected to replace this treaty.

MEXICO

Amendments to Corporate Tax

The following amendments to Mexico's corporate tax laws were enacted in December, 1970:

- (a) annual depreciation rates for the construction industry were lowered from 5% to 3%, and as regards equipment and machinery, from 10% to between 7%-9%;
- (b) the tax-free reinvestment of earnings will no longer be automatic, and
- (c) technical service fees and royalties will be taxed commencing 1971.

NETHERLANDS ANTILLES

Tax Haven Status

A brief but interesting article on the Netherlands Antilles as a tax haven appears in the January 13-20, 1971 edition of *Foreign Tax Law Weekly Bulletin*. This excellent tax publication is published by the Foreign Tax Law Association, Inc., P.O. 1394, Gainesville, Florida.

By ordinance adopted on August 31, 1970 (Official Gazette No. 93 of September 18, 1970), the Government froze the rates of corporate tax on certain companies which have already received special tax exemptions. The freeze on rates is to last for a 10 year period running from June 30, 1969 until June 30, 1979.

It has been reported that the Government of the Netherlands Antilles is studying a new system of tax incentives to replace the existing 10 year tax holiday which is available to certain new industries established in the Islands.

PANAMA

New Tax Incentives Law

On December 30, 1970, Panama enacted a new industrial incentives law abolishing the previous system of fiscal incentives in effective since 1957. In order to qualify for the incentives, the industry must actually transform or add value to the goods in question. Businesses are classified in accordance with their location and whether they produce goods for export or for the domestic market. Export businesses may qualify for complete exemption of income taxes and from export and import duties. Businesses that produce only for the domestic market may qualify for exemption from import duties and from income tax on those earnings re-invested for the production of new goods or the acquisition of new

equipment. Additional incentives include a 3 year loss carry-forward and accelerated depreciation.

Tax Exemptions for Retired Persons

Retirees, both foreigners or Panamanians, residing abroad, may now take up residence in Panama under a special class of visa, and they will be granted exemption from inheritance taxes, import duties and consular fees. Decree No. 260 of July 30, 1970.

Summaries of Tax Laws

The January and March 1971 editions, respectively, of the CIAT Newsletter contain helpful summaries of Panama's income tax laws and of the Panamanian tax clearance certificate.

PARAGUAY

Revised Industrial Incentives Law

Law No. 216 of November 9, 1970 classifies new industries either as "necessary" or as "convenient". Necessary industries are those which are considered to be of high priority in the development of the country and which process local raw materials or contribute to an increase in exports. Convenient industries are those which tend to substitute locally manufactured goods for imports, use a higher percentage of local labor, and utilize a greater degree of local raw materials.

It is not clear whether, all sub-parts of the foregoing definitions must be fulfilled or whether the fulfilling of any one of them is adequate for classification under the corresponding category.

Industries qualifying either as necessary or convenient receive tax and duty exemptions during a 5 year period. Necessary industries will receive a 50% reduction of income taxes, complete exemption from export and import duties and exemption from the tax on money exchanges. Convenient industries receive similar incentives to a lesser degree with the income tax reduction being 30% of the income tax due during the first 5 years.

Investments may be made in the form of cash, machinery and equipment, or licenses. The tax planning authorities have been directed to prepare annual lists of the industries that are to receive the benefits offered by this law. The list in each case is subject to the approval of the National Council of Economic Coordination.

PERU

Higher Personal Income Tax Rates

Personal income tax rates have been increased in the lower and higher brackets with a small drop in the middle brackets. On income in excess of 5,000,000 soles the rate is now 55% whereas previously it had been 42%. The tax rate on dividends is, however, limited to 30%.

PUERTO RICO

Comments on Tax Amendments

The March 10-17, 1971 edition of Foreign Tax Law Weekly Bulletin discusses at length the 1970 income tax legislation, especially as the same applies to corporations, partnerships and high-salaried executives. The previous edition of the same publication reported on the administration's plans to increase certain excise taxes.

With the enactment of the 1970 income tax legislation Puerto Rico has secured its status as one of the high tax jurisdictions in this Hemisphere.

SURINAM

Tax Amendments

Reports have been received of recently enacted legislation increasing the taxes on all vehicles but abolishing the tax on tractors utilized for agricultural purposes. Reportedly, the system of stamp taxes has also been revised.

VENEZUELA

Increased Tax on Oil and Minerals

In the final days of its 1970 session the Venezuelan Congress enacted legislation increasing income tax rates on the extractive industries. The total state participation in revenue from oil and mineral extraction will now amount to 80%. The law also gives the Venezuelan government the right to fix unilaterally the posted price of petroleum and mineral products used to establish the basis for determining the income tax liability of companies exporting such products from Venezuela.

This new level of taxation of the extractive industries is the highest in the Hemisphere and may tend in the long run to discourage further investment by private companies in the extractive industries in Venezuela.